

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

IN THE MATTER OF:

DAVID M. SIGMAN
CONNIE A. SIGMAN

Debtors

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CASE NO. 06-40167

DECISION AND ORDER
CONCERNING COMPLIANCE WITH § 727(a)(11)

At Fort Wayne, Indiana, on July 20, 2006.

Timing they say is everything, and that is just as true in bankruptcy proceedings as it is in other matters. Some things need to be done before filing the petition, see e.g., 11 U.S.C. § 109(h)(1), others need to be done afterwards. See e.g., 11 U.S.C. §§ 727(a)(11), 1328(g)(1). To confuse the two and do the wrong thing at the wrong time can render the act ineffective. To be eligible to file bankruptcy, individuals must receive credit counseling during the 180 days before filing. 11 U.S.C. § 109(h)(1). Then, to be eligible for a discharge, they must take a “course concerning personal financial management” “after filing the petition.” 11 U.S.C. §§ 727(a)(11), 1328(g)(1).

This is the debtors’ second case. Their first case was dismissed on December 29, 2005 because they had not received credit counseling prior to filing and they did not qualify for a waiver of that requirement. See, 11 U.S.C. § 109(h)(1), (3). Learning from this mistake and having received credit counseling on May 1, the debtors filed the petition initiating this case on June 27, 2006. In doing so they also filed certificates indicating they had completed the course in personal financial management. These certificates bore the number of their prior case and indicated they completed the course on May 24, 2006.

By the court’s order of June 28, 2006, the debtors were directed to show cause why the

Certificates of Debtor Education filed on June 27, 2006 should not be stricken, because they bore the case number of the debtors' prior case and indicated that the course had been completed prior to, rather than after, the filing of the petition. In response to this order, on July 17, 2006, the debtors filed different Certificates of Debtor Education. Although these new certificates bear the case number of their current case, they indicate that the debtors completed the financial management course on May 24, 2006 – well before this case was filed. Thus, although the debtors may have solved one problem, a more fundamental one remains.

In order to receive a discharge, individual debtors must complete a course in personal financial management “after filing the petition,” 11 U.S.C. § 727(a)(11)(emphasis added), not before. Consequently, based on what the court presently has before it, the debtors are not eligible to receive and will not receive a discharge. Since that is not scheduled to occur until sometime after October 2, 2006, there is still time to correct the problem.

SO ORDERED.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court